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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,144

12/03/2005

Takanobu Nishigaki

054-602

9043

35870

7590

02/02/2010

APEX JURIS, PLLC

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EXAMINER

ROSE, ROBERT A

ART UNIT

PAPER NUMBER

3727

MAIL DATE

DELIVERY MODE

02/02/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,144	Applicant(s) NISHIGAKI, TAKANOBU	
	Examiner Robert Rose	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 6-7 the recitation of "manually pushing said electric motor toward a guide bar of the chainsaw causes said wall faces to press against said guide bar" is deemed misdescriptive, in that only two of the four wall faces are actually pressed against the guide bar when the electric motor is urged toward the guide bar. The other two wall faces are urged away from contact with the guide bar.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan No. 61-24121 in view of Ballew, and further in view of Aksamit(US 4173908).

Japan('121) discloses a chainsaw sharpener comprising substantially all of the subject matter set forth in claim 1, except for the recitation of the wall faces having a substantial X-shape as seen in plan view. Ballew discloses a file guide having diverging walls to form a pair of opposed wall faces forming an X-shape as seen in plan view. To provide side wall faces on the lower surface of the guide body to aid in aligning the grinding tool with respect to the chain saw blade would have been obvious in view of Ballew.

Aksamit('908) discloses a chainsaw sharpener having guide wall faces which are pressed against a guide bar of the chainsaw to stabilize the sharpening tool during use.

To simply extend the depending side wall faces on the chainsaw sharpening tool of Japan('121) to contact the chainsaw guide bar in order to stabilize the sharpening tool during use, for more precise sharpening of the cutting edges, would have been obvious in view of Aksamit('908).

4. Applicant's arguments filed October 8, 2009 have been fully considered but they are not persuasive. Applicant has amended the claim to recite that the electric motor is manually pushed toward the guide bar of the chainsaw, causing the wall faces to press against the guide bar. With regard to the rejection under 35 USC 103, it appears that the upper plate(34) in Aksamit('908) does provide support for the sharpener. Note that the depending walls in Aksamit('908) contact the sides of the guide bar of the chainsaw to additionally stabilize the sharpening tool, and prevent the tool from wobbling. Such stabilization of the sharpener in Japan('121) is deemed to be taught by Aksamit('908). Ballew was applied as before, for the teaching of providing side wall faces on the lower surface of the guide body to aid in aligning the grinding tool with respect to the chain saw blade. Applicant's new limitation in claim 1 of the wall faces being manually pushed against the guide bar of the chainsaw, is deemed to be taught at least by Aksamit('908). Note that the side walls in Aksamit('908) contact the sides of the chainsaw bar, and allow the sharpening worker to push the electric motor to apply a force to bias the wall faces against the side of the guide bar, while maintaining a predetermined orientation of the grinding tool with respect to the chainsaw tooth being sharpened.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Rose whose telephone number is (571) 272-4494. The examiner can normally be reached on Monday through Thursday, and on alternate Fridays, from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter, can be reached at (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert Rose/
Primary Examiner
Art Unit 3727

Rr

January 28, 2010.